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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CC Docket No. 96-128

In the Matter of)

Implementation of the Pay Telephone)
Reclassification and Compensation)
Provisions of the Telecommunications)
Act of 1996)

BellSouth Comparably Efficient)
Interconnection Plan for Payphone)
Service Providers)

DOCKET FILE COPY ORIGINAL

To: The Commission

**COMMENTS OF THE
INMATE CALLING SERVICE PROVIDERS COALITION**

Pursuant to the Commission's November 27, 1996 Public Notice, the Inmate Calling Service Providers Coalition ("ICSPC") submits these comments on the BellSouth CEI Plan, filed by BellSouth Corporation, on behalf of BellSouth Telecommunications, Inc., and its affiliated companies ("BellSouth") on November 22, 1996.

ICSPC generally concurs with and adopts the comments filed by the American Public Communications Council ("APCC") on service order processing, installation and maintenance, volume discounts, and other issues that are not specific to coin-paid calling. ICSPC's comments focus on the issues that are specific to inmate calling services ("ICS").

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DISCUSSION

BellSouth's CEI Plan does not say anything at all about the manner in which BellSouth intends to comply with CEI parameters with respect to inmate calling services, as distinct from public payphone services. Overall, BellSouth's CEI Plan is so vague with respect to inmate calling services ("ICS") that the Commission (and interested parties) cannot evaluate whether the Commission's nondiscrimination requirements will be met. Essentially, BellSouth merely recites the CEI equal access parameters and nonstructural safeguards, and states that it will meet them. It does not, however, specify how it plans to implement them. Thus, the plan provides virtually no assurance that BellSouth will not subsidize or discriminate in favor of its ICS.

The importance of providing adequate safeguards against discrimination and subsidy is especially critical with respect to BellSouth's ICS. In the Payphone Order,¹ the Commission decided not to prescribe compensation for ICS providers for ICS calls, even though ICSPC had argued that ICS providers were subject to rate ceilings in numerous states that failed to provide a rate element for the recovery of ICS costs. The Commission indicated that ICS providers should pursue relief at the state level. Nowhere in the United States is relief from unreasonably low rate ceilings needed more than in BellSouth territory. Attached is a table of current local and intraLATA local exchange carrier ("LEC") rates and/or rate ceilings for ICS calls in each state. See Attachment 1. As shown, the lowest

¹ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Report and Order, FCC 96-388 (Sept. 20, 1996) ("Payphone Order"), and Order on Reconsideration, FCC 96-439 (Nov. 8, 1996) ("Payphone Reconsideration Order").

rates are virtually all BellSouth rates which represent rate ceilings for ICS providers in those states.

As long as these artificially low rate ceilings are in place, the incentive for BellSouth to subsidize and discriminate in favor of its ICS is particularly intense, since it is impossible to operate profitably without such subsidies or discrimination.² Further, the rate ceilings are unlikely to be increased without an initiative from BellSouth.³ Therefore, as long as these rate ceilings are in place, the utmost vigilance from this Commission is necessary to guard against violations of Section 276 of the Act.

I. VALUATION

BellSouth has chosen a separate affiliate as its means of complying with the CEI requirements and nonstructural safeguards adopted in the Commission's Payphone Order BellSouth CEI Plan at 3. The Commission has ruled that if a LEC chooses to provide its deregulated payphone services through a separate affiliate, then when the LEC transfers its ICS assets, the transfer must be recorded on the books at the higher of fair market value or net book cost, under Section 32.27(c) of the Commission's Rules. Payphone Order, ¶ 164.⁴ Going concern value, which includes "intangible assets such as location contracts

² The Commission also awarded BellSouth per-call compensation of 35 cents per call on interLATA calls, while awarding no compensation to independent ICSPs, thus making them even more vulnerable to a cross-subsidized BellSouth ICS.

³ Members of ICSC have had informal discussions with some regulators in BellSouth states who have said BellSouth support will be necessary (but not sufficient) condition for any rate relief.

⁴ BellSouth must conduct a fair market valuation even though BellSouth may have previously reassigned its ICS premises equipment to nonregulated status pursuant to the Declaratory Ruling. The ICS premises equipment that was previously reclassified as
(Footnote continued)

that add value to the [ICS] business," should be accounted for when determining fair market value.⁵ Id. However, BellSouth has not stated how will it ascertain fair market value. Indeed, BellSouth's CEI plan, tariff filing and cost allocation manual ("CAM") omit any discussion at all of asset valuation. Based on BellSouth's filings, it does not appear that BellSouth has conducted any valuation or made the necessary exogenous cost adjustment to credit regulated revenue requirements with any excess of fair market value over net book cost, as the Commission's rules and the Payphone Order require.

BellSouth's CEI plan should be rejected and BellSouth should be ordered to refile a plan that fully describes the method to be used to value BellSouth's ICS assets. The Commission must place the refiled plan on public notice, so that parties can comment on whether the proposed method of valuation is adequate to capture and credit to regulated revenue requirements any excess of fair market value over cost.

(Footnote continued)

nonregulated pursuant to the Declaratory Ruling is now being transferred to a nonregulated affiliate -- and to nonregulated books of account -- for the first time. Based on the Commission's rulings in the Payphone Order, valuation is now appropriate for this equipment. Further, as discussed below, under Section 276, any ICS assets that are physically located in the network must also be reclassified as nonregulated. Since these network-based assets were not affected by the Declaratory Ruling, they are now being reclassified for the first time, and are clearly subject to valuation on the same basis as BellSouth's newly deregulated public payphone equipment.

⁵ With or without contracts, there is "going concern" value derived from transferring the business with ICS facilities already in place, with no need to build market share, and with a network of "goodwill" relationships with confinement facilities.

II. BELLSOUTH'S PLAN FAILS TO DESCRIBE THE MANNER IN WHICH IT WILL PROVIDE NETWORK SUPPORT FOR ITS INMATE CALLING SERVICES

A. BellSouth's Failure To Discuss ICS Requires Rejection of Its CEI Plan

BellSouth is required to "explain how it will provide basic payphone services and unbundled functionalities."⁶ However, the plan fails to explain what network support, if any, is being provided to BellSouth Public's ICS, because BellSouth has not described its ICS operations at all. There is no description. In order for BellSouth to show how it is offering CEI to other ICS providers, it has to say how it is offering CEI to its own ICS and what support services BellSouth Telecom is providing or not providing to BellSouth Public.

B. BellSouth's Failure to Add in ICS Preempts the Commission from Determining Whether BellSouth is Complying with Section 276

Because BellSouth has not provided any specific information about its ICS or the CEI applicable to ICS, it is impossible to determine whether BellSouth is complying with the Payphone Order's CEI requirement, or even whether BellSouth has properly distinguished its ICS, which Section 276 classifies as nonregulated from regulated network function. The Commission is required to guess at whether BellSouth's ICS and the CEI supporting it have been properly defined.

BellSouth's failure to provide a specific description of how its network supports its ICS is critical because the ICS environment is quite different from the regular public payphone environment. A discussion of the special characteristics of ICS was included in

⁶ Payphone Reconsideration Order at ¶ 213.

ICSPC's comments in CC Docket No. 96-128, and is attached to these Comments. See Attachment 2.

Some of the distinctive characteristics of the ICS environment, and their legal and public policy consequences, can be summarized as follows. First, coin payphones are generally not allowed. The predominant method of calling is collect calling, which is generally the only method allowed.⁷ Thus, collect calling is clearly "incidental" to -- and indeed represents the very essence of -- the "payphone service" business in the ICS environment. See 47 U.S.C. § 276(d).

Second, because confinement facilities have special needs to control inmate calling and because the incidence of fraudulent and uncollectible calls from confinement facilities is especially high, ICS requires a sophisticated call control system which is customized to the facilities' particular needs.

This system is usually located on the premises of the confinement facility, and in any event, is dedicated to the particular facility. Therefore, the call control system must be defined as part of a Bell Company's nonregulated ICS facility.,

Third, there is necessarily an integral relationship between the call control system and the processing, billing and collection of ICS calls. Without a good call control system, which effectively prohibits calling to numbers known to be involved in fraudulent and uncollectible calls, the incidence of bad debt is likely to reach unacceptable levels that preclude the ICS business from being profitable. Therefore, call control and call processing

⁷ In jails, which generally are located relatively close to the inmates' homes, the calls are predominantly local and intraLATA.

are typically integrated in a single system under the ICS provider's control. Even if call processing is provided separately - e.g., through ordinary network collect calling features - it must be subject to special restrictions and must be coordinated with the call control system. Therefore, it is critical for Bell, companies' CEI plans to describe in detail the manner in which their networks support the processing, billing and collection of the collect calling services provided by their ICS operations.

Fourth, even with an effective call control system, bad debt is substantially higher for ICS than for ordinary collect calling. Therefore, if subsidies and discrimination in favor of Bell Companies ICS are to be eliminated, as Section 276 requires, the Bell company's ICS must be defined in such a way that the nonregulated entity has responsibility for uncollectible calls. Otherwise, the Bell Company's bad debt from ICS will continue to be subsidized by other regulated services.

BellSouth's CEI plan fails to provide any information enabling the Commission to determine whether BellSouth's ICS and supporting CEI are configured consistently with these criteria. Therefore, BellSouth must be ordered to refile its plan.

**C. The Commission Must Not Allow BellSouth to Define
 Its ICS As Part of Regulated Network Services**

As discussed above, the central components of an inmate calling service are (1) the call control system, which implements restrictions on the timing and permissible destinations of inmate calls, and contains mechanisms to monitor and detect fraudulent or prohibited calls, and (2) the call processing system, which validates, rates, completes, and prepares billing information for inmate calls. Independent ICS providers typically provide

both components on-premises as part of a single, integrated system. Even if the two components are not integrated, they must be closely interrelated. For example, the call processing system must be configured so that calls never default to a live operator unless the operator is specially trained and dedicated to handling inmate calls. Further, the call processing system should be capable of transmitting information received in the course of billing and collecting inmate calls so that the call control system can use such information as appropriate to implement additional restrictions on inmate calling.

BellSouth's CEI plan gives no indication of whether the call control and call processing functions that are central to the provision of ICS are considered by BellSouth to be part of BSPC's ICS or part of BellSouth's regulated network offerings. Since the call processing and call control system is the essential component of an inmate calling service, it is subject to deregulation on the same basis as the terminal equipment, regardless of whether the call processing and call control system is located on-premises or attached to the LEC's network in the central office.⁸ The Commission did not rule on this issue in the

⁸ As discussed in earlier filings (see ICSPC's Docket 96-128 Comments at 18), before the emergence of competition, LEC ICSPs provided inmate calling services through the same network systems used to provide regular collect calling services. Increasingly, however, in order to compete with the sophisticated call control systems furnished by independent providers, LECs have migrated to providing the call control and call processing functions through discrete equipment similar to the inmate calling systems employed by independent ICSPs. Declaratory Ruling, ¶ __. Some LECs, like the independent ICSPs, currently locate that equipment on the confinement facility's premise. Others locate the equipment in their central offices, or may locate the call control system on the premises and the call processing system in the central office.

Since the same functions are provided and are located in discrete pieces of equipment regardless of the equipment's location, it is impermissible to classify the service differently based on the equipment location.

Payphone Order or Order on Reconsideration. Therefore, it must be resolved in the context of deciding whether to approve BellSouth's CEI plan.

In resolving this issue, the Commission is not bound by pre-Telecommunications Act precedent that demarcated the distinction between regulated "basic" service and nonregulated "CPE" and "enhanced service." Section 276 does not prohibit BellSouth only from subsidizing or discriminating in favor of enhanced services or CPE. It prohibits BellSouth from subsidizing or discriminating in favor of its "payphone service," defined as, among other things, "the provision of inmate telephone service in correctional institutions, and any ancillary services." 47 U.S.C. § 276(d). BellSouth may not subsidize or discriminate in favor of its inmate calling services anymore than its inmate calling equipment. If the FCC allowed BellSouth to continue defining its inmate calling service as a "regulated" service, rather than part of the deregulated "payphone service" offering as Congress intended, the rules would do nothing to prevent BellSouth from continuing to subsidize and discriminate in favor of its inmate calling service, and the CEI plan would be meaningless with respect to inmate calling services. Such an approach would make a mockery of Section 276 and the Commission's CEI policies.

Yet, it appears that this may be exactly the approach that BellSouth intends to take. Attached is a document from BellSouth which offers an independent ICS provider an agreement to pay a 45% commission in return for sending ICS traffic to BellSouth. If BellSouth enters into such an arrangement with BSPC, BellSouth will have essentially relieved BSPC of responsibility for the risks associated with the ICS business, and would

allow BellSouth to continue subsidizing the costs of the high levels of bad debt associated with the ICS business.

As a result of allowing BellSouth to misdefine its ICS as a regulated service, BellSouth would be able to continue blatantly subsidizing its ICS in violation of Section 276 of the Act. For example, as discussed above, one of the critical differences between ICS and ordinary operator services is the high proportion of "bad debt" associated with ICS due to fraudulent or otherwise uncollectible calls. Monitoring to prevent fraudulent or uncollectible calls is a central function of an ICS call control and call processing system. However, even with sophisticated controls, bad debt from ICS far exceeds bad debt from other operator services as a percentage of billed revenue. In earlier filings in Docket No. 96-128, ICSPC demonstrated that Bell companies currently do not segregate bad debt associated with ICS from bad debt associated with ordinary operator services. Thus, the Bell companies effectively use revenues from other services to subsidize their bad debt from ICS. If BellSouth and other Bell companies are able to continue to define ICS and associated bad debt as part of regulated service, they will be able to continue subsidizing this bad debt, contrary to the letter and intent of Section 276.

Further, as BellSouth well knows, established independent ICS providers are in no position to take advantage of this seemingly generous offer. Independent ICS providers have sunk investment in their own call processing and call control systems, which would become "stranded" if these providers signed up to route their ICS traffic to BellSouth. Thus, the misinterpretation of Section 276 to require only that BellSouth's competitive

ICS be made formally available, through commission arrangements, to other ICS providers, would enable BellSouth to avoid any meaningful unbundling of its competitive ICS from the regulated services that are truly needed by independent ICS providers.

Issues of subsidy and discrimination are particularly acute in BellSouth's case, as discussed above, because of the especially low rate ceilings applicable to ICS in BellSouth territory. See Attachment 1. Allegations of subsidies and a "price squeeze" on ICS providers are the subject of a major complaint filed by the North Carolina Payphone Association against BellSouth before the North Carolina Utilities Commission. See Attachment 4. It is evident from events in North Carolina that BSPC is committed to pay out more money in commissions and equipment expenses than the maximum commission offered by BellSouth Telecom. Id. In addition, ICSPC has prepared a preliminary analysis of BellSouth's likely cost structure for inmate calling services, in North Carolina and South Carolina based on provisions of the services in the network with the 45% commission offered to ICS providers. After paying estimated costs for validation, transmission,⁹ billing and collection, bad debt, and applicable taxes, this analysis indicates that BellSouth would at best break even on each local call in North Carolina, and would lose 1.6 cents on each local call in South Carolina, before paying any maintenance and marketing expenses, equipment depreciation, or overhead. See Attachment 5.

Congress clearly intended that Bell companies' ICS be removed from all subsidies from regulated revenues, so that the Bell companies' ICS would no longer be

⁹ Transmission costs, however, would be much higher than indicated if BellSouth does not have an automated operator center located near the confinement facility.

insulated from market forces and could no longer benefit from the type of "price squeeze" described in Attachment 4. By allowing BellSouth to continue providing the critical ICS functions (i.e., the transmission validation, billing and collection of ICS calls) as part of a regulated service, exempt from Section 276's ban on subsidies and discrimination, the Commission would violate both the language and the intent of Section 276.

In summary, the reclassification of BellSouth's ICS, including call processing and control functions, as nonregulated is essential to prevent the subsidies and discrimination prohibited by Section 276, and cannot be dependent on whether BellSouth chooses to physically locate the call processing and/or call control system on its own premises or on the premises of its prison facility customer. BellSouth must remove its ICS business from regulation as Congress intended. BellSouth must refile its CEI plan, describing precisely how it will provide nondiscriminatory interconnection to the systems that provide inmate calling services, wherever located, and not merely to the terminal equipment that is connected to ICS systems.

**III. ASSUMING THAT THE INMATE CALL PROCESSING
SYSTEM IS PART OF BSPC'S ICS, BELL SOUTH'S PLAN
IS SEVERELY DEFICIENT**

As discussed above, ICS cannot be treated as part of BellSouth's regulated LEC operations without running afoul of Section 276 and Commission policies. In this Section, ICSPC assumes that the inmate call processing system is part of BSPC's ICS. BellSouth's plan fails to provide any detail about the manner in which BellSouth Telecom will provide

network support to BellSouth Public and how that support will be made available to independent ICS providers.

A. The Plan Fails to Provide for Collocation of Competitors' Call Control Systems

BellSouth's plan does not state whether its ICS call processing and call control systems are located on customer premises or in central office peripherals. If the system is located in the central office, then CEI principles require that BellSouth allow other providers to physically or "virtually" collocate equipment. The plan does not provide any information about how such collocation will be accommodated, including detail on how BellSouth's call processing equipment technically interfaces with its regulated network operations.

B. The Plan Fails To Discuss The Types Of Fraud Protection Functions That Are Available To BSPC and Other ICS Providers

Independent ICSPs have historically been handicapped in their ability to compete with Bell companies' inmate calling services operations because the Bell companies have referred to provide critical account and fraud control information on an unbundled basis and on reasonable terms.

This information includes, among other things:

Customer account information, including Social Security number and customer code;

Service establishment date;

Disconnect Date and reason for disconnect;
Additional lines;
Previous telephone numbers, if any;
Service restrictions;
Class of service;
Payment history;
Calling patterns/returns;
Credit history; and
Features (e.g. call forwarding or three-way calling)

This type of information is especially critical in the ICS environment because of the high incidence of fraud and bad debt incurred by ICS providers. Section 276's directive that the Bell companies not discriminate in favor of their own operations requires that the account and fraud control information listed above be made available to independent ICSPs if it is provided to or for the benefit of BellSouth's ICS.

However, BellSouth's CEI plan is silent on whether any of this information is provided to, or for the benefit of, BSPC's ICS operation or other ICS providers. The experience of ICSPC members is that this information is available only if the ICS provider enters a billing and collection agreement directly with BellSouth. However, the cost of entering into such a billing arrangement is high.¹⁰ As a result, the vast majority of independent ICSPs use third-party billing clearinghouses. The billing agreements between

¹⁰ Billing and collection agreements can require up front payments by independent ICSPs of \$75,000 or more.

the BOCs and such third-party clearinghouses typically prohibit the use of information supplied to the clearinghouse by any other party. Clearly, it is not permissible for BellSouth to condition the availability of a critical CEI function on the purchase of a nonregulated service (billing and collection) from BellSouth. BellSouth should be required to refile its plan and to disclose (1) what kind of fraud prevention information is provided to, or for the benefit of, its ICS, (2) how such information is provided,¹¹ and (3) what arrangements have been made to provide the same information on the same basis to independent ICS providers.

C. The Plan Fails to Discuss Validation

Section 276 requires that information related to validation of called numbers and must be available on the identical nondiscriminatory basis to independent ICS providers as to BellSouth's own ICS. Yet, BellSouth's CEI plan says nothing about validation. For example, the CEI plan does not state whether BellSouth Public relies on LIDB validation of its ICS calls. The cost to ICSPs for each LIDB check, using currently available services, is \$.06 or more. Since it has been asserted that every attempted call must be validated, including repeat calls, and since many call attempts are made to busy numbers, unanswered calls, and refused calls, ICSPs can spend 20 cents or more on validation for every revenue-generating call.

¹¹ For example, if this information is available on a real-time basis to validate BellSouth's ICS calls, then BellSouth should make available on-line access to this information to independent ICS providers as an option so that they can check any relevant item before completing an inmate call. Such on-line access would enable an ICS provider to identify potential problems and minimize the bad debt that is incurred.

Clearly, it is important for BellSouth's CEI plan to state whether BSPC public is relying on LIDB validation or some other mechanism for validation of ICS calls. To the extent that BellSouth is providing LIDB validation, BellSouth must charge BSPC the same rates charged to ICSPs.

In addition, BellSouth's CEI plan fails to address the problem of competitive local exchange carrier ("CLEC") number validation. LIDB at this time provides no indication that a called party has changed telephone companies from an incumbent LEC to a CLEC.¹² If the called number validated properly before the change of LEC, it continues to do so. As a result, based on LIDB alone, an ICSP has no way of knowing that it should not continue to send its billing data to the LEC. Two to six weeks later, the LEC reports the call as unbillable and the independent ICSP currently is not informed why the call was unbillable. And, even if it could determine that the call was to a CLEC, the independent ICSP does not know which CLEC. Meanwhile, the ICSP has paid BellSouth or intermediaries a validation fee and a billing and collection fee for every call to the CLEC.

If BellSouth makes available for the benefit of its own ICS calls information about the fact that a called party has changed carriers, and the identity of the CLEC, BellSouth's ICS will receive a tremendous preference, contrary to Section 276(a). This advantage will only grow as competition develops and more customers elect to switch to CLECs. ICSPC understands that, at some point, information about CLEC changes will become available in a new software release for LIDB. Pending such availability, this

¹² Why CLEC's market shares of the overall residential market are currently very last, ICSPC's experience is that inmates are aware of this area of vulnerability and place a greatly disproportionate share of ICS calls to CLEC numbers.

information must be made available in a timely and nondiscriminatory manner. To the extent that it is furnished to or for the benefit of BellSouth's ICS, it must also be given to their independent counterparts.

Accordingly, BellSouth must refile its plan describing the manner in which call validation information, including information about CLEC changes, is made available to, or for the benefit of, BSPC's ICS.

BellSouth should also describe its arrangements for exchanging billing and collection services with independent LECs and explain how it will make such services available to its own ICS and independent ICS providers.

**D. The Plan Fails To Provide For Nondiscriminatory
Treatment Of Bad Debt**

As a result of their current practices, BellSouth's inmate calling services operations do not have to account for their bad debt.¹³ BellSouth does not retain information regarding the calling number when it bills a call on behalf of its inmate calling services operation. As a result, any call for which BellSouth is unable to charge back against BellSouth's ICS operation those ICS calls for which it is unable to collect. Instead those uncollectibles apparently go into a common pool with regulated residential and business

¹³ BOC inmate services operations send their call record to the BOCs' billing and collection departments in the standard format generated by the Automatic Message Accounting ("AMA") system. The calls therefore appear on the customer's regular billing pages. Presumably, BellSouth can disconnect a subscriber's line for nonpayment - a step it will not take on behalf of independent ICS providers if the subscriber denies all knowledge.

bad debt, and regulated ratepayers bear the costs of the BellSouth's ICS' bad debt. Furthermore, to the extent that BellSouth attempts to charge back bad debt to its ICS based on some average bade debt, there is still a subsidy of BellSouth's ICS. As explained above, ICS bad debt is much higher than bad debt for other services. Averaging in ICS bad debt with other bade debt dilutes the level of chargeback to ICS, with ratepayers picking up the shortfall.

By contrast, because independent ICSPs bill for their calls using a different record format, the BOC has a record of who the billing party is.¹⁴ Thus, when the BOC cannot collect for a call, that bad debt is charged back to the independent ICSP, which then must account for its entire cost. In addition, the independent ICSP is liable for the costs of the call, even though it is unable to collect from the called party.

BellSouth's plan does not explain how it intends to handle bad debt for its own ICS and independent ICS. BellSouth must be required to refile its plan and to show in detail how bad debt is addressed.

¹⁴ In order to bill a call, independent ICSPs send a call record to a third party service bureau (or where there is a direct billing and collection agreement with the BOC, to the BOC's billing and collection department). The independent ICSP sends the call record in the standard format used for third party billing, Exchange Message Interface ("EMI"). Calls billed in the EMI format appear on a separate page in the called party's bill. This makes it possible for the billed party to easily identify, and not pay for, those calls.

IV. EVEN IF CALL PROCESSING SYSTEMS COULD LEGALLY BE INCLUDED AS PART OF REGULATED FACILITIES, BELL SOUTH'S PLAN IS DEFICIENT

Even if BellSouth could legally define its inmate call processing system as part of its regulated facilities -- which it may not for the reasons discussed in Section II. above -- BellSouth's plan fails to satisfy the requirements of the Payphone Order and Section 276.

A. The Plan Fails to Provide Technical Interface Information

The plan fails to provide detail on how BellSouth's call processing and call control equipment technically interfaces with BellSouth's regulated network operations, so that other providers can utilize the same interface if they wish. For example, BellSouth has not specified what interface or interconnection arrangements would be used for the purpose of ensuring that BellSouth's network operator positions can identify a call as originating from an inmate facility, so that the call is handled on an "automated collect only" basis, and the call is not inadvertently billed to a calling card or "timed out" to a live operator. Further, in order to minimize fraud and other uncollectible calls, there should be some way for information gathered by the call processing system to be passed on to the call control system so that additional call restrictions can be implemented as appropriate.¹⁵

B. Resale Or Commission Arrangements For BellSouth Operator Services Are Not Specified

If BellSouth provides inmate call processing and/or call control as part of a regulated service, then it is necessary to describe in a tariff the terms under which that

¹⁵ For example, if collect calls to a certain number are determined to be uncollectible, that information must be sent back to the call control system so that calls to that number are no longer allowed.

service can be resold to BSPC and other competing ICS providers. The tariffs attached to BellSouth's CEI plan, however, provide no information on the terms, conditions, and charges for the resale of these functions. Although BellSouth's "Smartline" tariff purports to be available for connection to confinement facilities, the tariff does not provide for the provision of operator functions to the subscriber for resale. It merely states that "[t]he Company's operator system will handle 0- intraLATA toll calls and 0+ local calls from Smartline Service lines" and that "[a]ll 0+ interLATA and intraLATA calls will be routed to the SmartLine Service subscriber presubscribed carrier." BellSouth Telecommunications, Inc., Florida, A7.8.1.D.8, 11. The implication is that operator calls are simply handed off to BellSouth Telecommunications, Inc.

Such an arrangement is inconsistent with Section 276. Even if BellSouth were permitted to provide its inmate call processing and/or call control functions in the network, those functions must be provided on a resale basis (as, for example, the coin control functions are provided). Otherwise, the real provider of ICS would be BellSouth Telecommunications, Inc., not BellSouth Public.

However, even if it were permissible for BellSouth Telecommunications to be the ICS provider while BellSouth Public merely provides terminal equipment, the CEI plan is still deficient, because it fails to describe what commissions are paid by BellSouth Telecommunications to BellSouth Public and/or its inmate facility customers, and how such commission arrangements will be made available on a nondiscriminatory basis to independent ICS companies.

**C. The Validation And Fraud Prevention Services
Discussed Above Must Be Unbundled**

Finally, CEI requires that any services that can be unbundled from the package used by BellSouth's own ICS must be unbundled and made available to independent ICS providers. Thus, even if BellSouth could define its entire ICS as part of regulated "CEI," it must make the components of that CEI package individually available, to the extent feasible, to ICS providers. Therefore, BellSouth must still state in its CEI Plan which of the validation and fraud prevention services described above will be unbundled and made available individually to independent ICS providers.

CONCLUSION

For the foregoing reasons, BellSouth's CEI plan must be rejected and BellSouth must be instructed to submit a CEI plan that addresses ICS forthrightly and in the necessary detail. Therefore, BellSouth's CEI plan must be rejected. BellSouth must be required to refile its plan in accordance with the foregoing comments. Since a great deal of relevant material was omitted and must be supplied, the Commission should require the refiled plan to be served on commenting parties and to be subject to the same comment period, so that parties have an adequate opportunity to review and comment on the new material submitted.

Dated: December 30, 1997

Respectfully submitted,

A handwritten signature in cursive script, reading "Albert H. Kramer". The signature is written in black ink and is positioned above a horizontal line.

Albert H. Kramer

Robert F. Aldrich

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP

2101 L Street, N.W.

Washington, D.C. 20037-1526

(202) 828-2226

Attorneys for the Inmate Calling Service
Providers Coalition

Certificate of Service

I hereby certify that on December 30, 1996, a copy of the foregoing Comments of the American Public Communications Council was hand-delivered or sent by first class United States mail to:

M. Robert Sutherland
A. Kirven Gilbert III
Suite 1700
1155 Peachtree Street, N.E.
Atlanta, Georgia 30309-3610
Counsel for BellSouth Corporation

Ms. Janice Myles*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Room 544
Washington, DC 20554

ITS*
2100 M Street, NW
Room 140
Washington, DC 20037



Robert F. Aldrich

* Hand-delivered

ATTACHMENT 1

TABLES OF LEC RATES AND/OR RATE CEILINGS APPLICABLE TO ICS CALLS IN EACH STATE

Daytime Local Collect Call - Operator Surcharge (Highest to Lowest) Dec 1996

	State	RBOC	Operator Surcharge
1	Wisconsin	Ameritech	*\$3.00
2	Illinois	Ameritech	*\$2.50
3	Indiana	Ameritech	\$2.10
4	North Dakota	US West	\$2.10
5	Wyoming	US West	\$2.10
6	Texas	SW Bell	\$2.10
7	South Dakota	US West	\$2.10
8	Michigan	Ameritech	**\$2.05
9	Kansas	SW Bell	\$2.00
10	Nebraska	US West	\$1.95
11	California	Pac Bell	*\$1.80
12	Connecticut	NYNEX	\$1.75
13	Colorado	US West	\$1.70
14	Vermont	NYNEX	\$1.65
15	Oklahoma	SW Bell	\$1.65
16	Maryland	B Atlantic	\$1.55
17	Kentucky	S Bell	\$1.50
18	Utah	US West	\$1.50
19	Rhode Island	NYNEX	\$1.35
20	Montana	US West	\$1.35
21	Maine	NYNEX	\$1.30
22	Pennsylvania	B Atlantic	\$1.30
23	New York	NYNEX	\$1.30
24	Arizona	US West	\$1.30
25	New Mexico	US West	\$1.30
26	Minnesota	US West	\$1.30
27	Idaho, So.	US West	\$1.30
28	Oregon	US West	\$1.30
29	Iowa	US West	\$1.30
30	Idaho, No.	US West	\$1.30
31	Alabama	S Bell	*\$1.25
32	New Jersey	B Atlantic	\$1.25
33	Delaware	B Atlantic	\$1.25
34	Ohio	Ameritech	\$1.10
35	New Hampshire	NYNEX	\$1.05
36	Mississippi	S Bell	\$1.00
37	Florida	S Bell	\$1.00
38	Missouri	SW Bell	\$1.00
39	Nevada	Pac Bell	\$1.00
40	Arkansas	SW Bell	\$0.90
41	Massachusetts	NYNEX	\$0.88
42	Virginia	B Atlantic	\$0.75
43	Georgia	S Bell	\$0.70
44	North Carolina	S Bell	\$0.70
45	South Carolina	S Bell	\$0.70
46	Washington	US West	\$0.65
47	Louisiana	S Bell	\$0.63
48	West Virginia	B Atlantic	*\$0.60
49	Tennessee	S Bell	\$0.50

* Inmate rate reflected here

**avg. charge from MI PSC - up to 300% can be charged (\$8.14)

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210 North Park Avenue Winter Park, Florida * (407) 740-8575